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Attorneys for Defendants LDS Family Services and Pamela Taylor

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION, STATE OF UTAH**

JAKE M. STRICKLAND, personally and individually; and JAKE M. STRICKLAND for and on behalf of J.D.S., his biological Minor Child (dob 12/29/2010);

Plaintiff,

v.

WHITNEY VIVIAN DEMKE, f/k/a WHITNEY VIVIAN PETTERSSON; LDS FAMILY SERVICES; PAMELA TAYLOR; J.K.Y., current adoptive father, J.T.Y., current adoptive mother; WOOD CRAPO LLC; WOOD JENKINS LLC, KIRTON & MCCONKIE LLC; LARRY S. JENKINS; DAVID J. HARDY; and JOHN DOES I TO XX;

Defendants.

ORDER ON MOTIONS TO DISMISS

Case No. 2:13-cv-01130

Judge Dee Benson

The following motions came before the Court, with the Honorable Dee Benson, United States District Court Judge, presiding, on Tuesday, December 16, 2014:

(1) The Motion to Dismiss [Dkt 42] of defendants LDS Family Services and Pamela Taylor (“LDSFS Defendants”);

(2) The Motion to Dismiss [Dkt 45] of defendants Kirton McConkie, PC, Larry S. Jenkins, and David J. Hardy (“Attorney Defendants”);

(3) The Motion to Dismiss [Dkt 44] of defendants J.K.Y. and J.T.Y.’s (“Adoptive Parents”);

(4) Whitney Vivian Demke’s Motion to Dismiss [Dkt 48]; and

(5) Plaintiff’s Motion for Rule 56(d) Continuance to Conduct Discovery [Dkt. 70].

Wesley D. Hutchins appeared on behalf of the plaintiff Jake M. Strickland; Alan L. Sullivan and James D. Gardner appeared on behalf of the LDSFS Defendants; Robert S. Clark appeared on behalf of the Attorney Defendants; Monica S. Call appeared on behalf of the Adoptive Parents; and Rick L. Rose and Adam Richards appeared on behalf of Ms. Demke. After carefully considering the Verified Complaint, the parties’ motions and memoranda, and the arguments of counsel, the Court ruled from the bench as follows:

(1) The Motions to Dismiss filed by the LDSFS Defendants, the Attorney Defendants, and the Adoptive Parents should be granted in their entirety because, as to those defendants, the Verified Complaint fails to state any claim for which relief can be granted. The claims against these defendants fail to disclose any facts that would suggest any actionable misconduct on their part.

(2) Ms. Demke's Motion to Dismiss should be granted in part and denied in part because, as to her, the First, Second, Sixth, Seventh, Tenth, and Eleventh Causes of Action of the Verified Complaint fail to state a claim for which relief can be granted, but the Third, Fourth, Fifth, Eighth, and Ninth Causes of Action state a claim for which relief can be granted.

(3) Plaintiff's Motion for Rule 56(d) Continuance to Conduct Discovery should be denied as to the claims dismissed because, among other reasons, plaintiff failed to identify specific facts he expects to find in discovery.

The Court hereby incorporates into this Order the Court's ruling from the bench at the hearing. Accordingly:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. The Motions to Dismiss filed by LDSFS Defendants, the Attorney Defendants and the Adoptive Parents are hereby granted in their entirety, and all claims in the Verified Complaint against these defendants are hereby dismissed without prejudice.

B. Ms. Demke's Motion to Dismiss is granted in part and denied in part. The First, Second, Sixth, Seventh, Tenth and Eleventh Causes of Action against Ms. Demke are hereby dismissed without prejudice. Ms. Demke's Motion to Dismiss the remaining claims in the Verified Complaint is hereby denied.

C. Plaintiff's Motion for Rule 56(d) Continuance to Conduct Discovery is hereby denied.

D. The LDSFS Defendants, the Attorney Defendants, and the Adoptive Parents are hereby determined to be prevailing parties and may be awarded their costs of court and other relief to which they may be entitled upon application in compliance with Rule 54(d)(1), Federal Rules of Civil Procedure.

BY THE COURT:

A handwritten signature in black ink that reads "Dee Benson". The signature is fluid and cursive, with the first name "Dee" and last name "Benson" clearly distinguishable.

Honorable Dee Benson
United States District Court Judge

APPROVED AS TO FORM:

THE HUTCHINS LAW FIRM PC

Wesley D. Hutchins
Attorneys for Jake M. Strickland

RAY QUINNEY & NEBEKER

/s/ Rick L. Rose (signed with permission)
Rick L. Rose
Attorneys for Whitney Vivian Demke

STOEL RIVES LLP

/s/ Kenneth B. Black (signed with permission)
Kenneth B. Black
Monica S. Call
Attorneys for J.K.Y. and J.T.Y.

PARR BROWN GEE & LOVELESS

/s/ Robert S. Clark (signed with permission)

Robert S. Clark

Breanne D. Fors

Attorneys for Kirton McConkie, PC,

Larry S. Jenkins, and David J. Hardy